



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

Docket No. USCG-2019-0809

RIN 1625-AA09

Drawbridge Operation Regulation; Chelsea River, Chelsea, MA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Chelsea Street Bridge across the Chelsea River, mile 1.3, at Chelsea, Massachusetts. The bridge owner, Massachusetts Department of Transportation (MassDOT), submitted a request to allow the bridge to open to 139 feet above mean high water instead of the full open position of 175 feet unless a full bridge opening is requested. It is expected that this change to the regulations will create efficiency in drawbridge operations and better serve the needs of the community while continuing to meet the reasonable needs of navigation.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Type USCG-2019-0809 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call

or e-mail Mr. Jim Rousseau, First Coast Guard District, Project Officer, telephone (617)-223-8619, e-mail James.L.Rousseau2@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
OMB	Office of Management and Budget
NPRM	Notice of Proposed Rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code
MassDOT	Massachusetts Department of Transportation

II. Background Information and Regulatory History

On November 29, 2019, the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulation; Chelsea River, Chelsea, MA, in the **Federal Register** (84 FR 65728). We received six supportive comments in response to the NPRM.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority of 33 U.S.C. 499. The Chelsea Street Bridge at mile 1.3, across the Chelsea River, at Chelsea, Massachusetts, has a vertical clearance in the closed position of 9.33 feet at mean high water. Horizontal clearance is approximately 225 feet. The waterway users include recreational and commercial vessels, including tugboat/barge combinations and tankers.

The existing drawbridge operating regulations are listed at 33 CFR 117.593. In September of 2019, the owner of the bridge, MassDOT, requested a change to the drawbridge operation regulations to allow the Chelsea Street Bridge to open to 139 feet

above mean high water, which is an acceptable height for all vessels requesting openings on the Chelsea River. The change in drawbridge operations is due to the increased volume of traffic across the bridge during peak commuting hours, making bridge openings up to 175 feet impractical. This change in opening height reduces the opening time by 2-6 minutes per opening. The Chelsea Street Bridge will perform a full bridge opening of 175 feet above mean high water when requested to do so. The regulations require the bridge to open immediately on signal.

MassDOT reached out to the maritime stakeholders with the change and received no objections.

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard provided 60 days for comment regarding this rule and received seven comments all in support of the change.

There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

The Coast Guard will change the Chelsea River Bridge regulation so it can open to 139 feet, except when a requested to open to 175 feet.

Due to the unique nature of the drawbridge operation for this bridge, MassDOT needs to alter the lighting requirements to better meet the needs of navigation at this drawbridge. In accordance with 33 CFR 118.85, the center of the navigational channel under the operable span will be marked by a range of two green lights when the vertical span is open to navigation. MassDOT will change lighting to allow one solid green light and one flashing greenlight when the bridge is at the 139 footmark and two solid green lights when the bridge is fully opened to 175 feet.

The rule will continue to meet the reasonable needs of navigation while also improving drawbridge efficiency of operation Coast Guard will change the Chelsea River Bridge regulation so it can open to 139 feet, except when a requested to open to 175 feet.

V. Regulatory Analyses

The Coast Guard has developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the fact that this bridge will open for all vessel traffic when requested and provide vertical clearance for all vessels when opened and thus should not impact maritime traffic. We believe that this proposed change to the drawbridge operation regulations at 33 CFR 117.593(b) will meet the reasonable needs of navigation.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comment from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

The bridge provides 139 feet and 175 feet of vertical clearance when opened on demand that should accommodate all the present vessel traffic with 9.33 feet vertical clearance in the closed position at MHW. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small

Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT

section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.593 to read as follows:

§ 117.593 Chelsea River.

(a) All drawbridges across Chelsea River shall open on signal. The opening signal for each drawbridge is two prolonged blasts followed by two short blasts and one prolonged blast. The acknowledging signal is three prolonged blasts when the draw can be opened immediately and is two prolonged blasts when the draw cannot be open or is open and must be closed.

(b) The draw of the Chelsea Street Bridge, mile 1.3, at Chelsea, shall open as follows:

(1) The draw shall open on signal to 139 feet above mean high water for all vessel traffic unless a full bridge opening to 175 feet above mean high water is requested.

(2) The 139 foot opening will be signified by a range light display with one solid green light and one flashing green light and the full 175 foot opening will be signified with two solid green range lights.

Dated: February 12, 2020

A.J. Tionson,
Rear Admiral, U.S. Coast Guard,
Commander, First Coast Guard District.
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